

KELLOGG, HUBER, HANSEN, TODD, EVANS & FIGEL, P.L.L.C.

SUMNER SQUARE  
1615 M STREET, N.W.  
SUITE 400  
WASHINGTON, D.C. 20036-3209

(202) 326-7900

FACSIMILE:  
(202) 326-7999

July 13, 2015

***Via ECF (S.D.N.Y. and C.D. Cal.) and Email (D. Kan.)***

The Honorable Denise L. Cote  
United States District Court for the Southern District of New York  
Daniel Patrick Moynihan U.S. Courthouse  
500 Pearl Street  
New York, NY 10007

The Honorable John W. Lungstrum  
The Honorable James P. O'Hara  
United States District Court for the District of Kansas  
500 State Avenue, Suite 517  
Kansas City, KS 66101

The Honorable George H. Wu  
United States District Court for the Central District of California  
312 North Spring Street  
Los Angeles, CA 90012-4701

Re: *NCUA v. RBS Securities, Inc.*, No. 11-5887 (C.D. Cal.)  
*NCUA v. RBS Securities, Inc.*, No. 11-2340 (D. Kan.)  
*NCUA v. RBS Securities, Inc.*, No. 13-6726 (S.D.N.Y.)  
*NCUA v. Morgan Stanley & Co.*, No. 13-6705 (S.D.N.Y.) (Lead Case)

Judges Cote, Lungstrum, O'Hara, and Wu  
July 13, 2015  
Page 2

Dear Judges Cote, Lungstrum, O'Hara, and Wu:

NCUA, as liquidating agent, respectfully seeks leave to file this short reply to respond to a misleading statement in RBS's opposition (ECF No. 374) to NCUA's request for a protective order (ECF No. 373).

RBS misleadingly claims that NCUA has provided it with short notice of certain depositions of Credit Suisse employees. *First*, NCUA requested those deposition dates from Credit Suisse weeks ago; the formal notices served last week simply memorialize dates agreed upon by the parties after those informal discussions. *See* Exhs. A, B. *Second*, NCUA will not use those depositions against RBS in any way, so RBS is not receiving short notice of these depositions, and has no standing to object. *See* ECF No. 101 ("MDP"), § 10(b) (requiring NCUA to "provide notice of [a] fact deposition to the other Defendant Group" if it intends to use that deposition against such Defendant Group). NCUA has not provided notice under MDP § 10(b) of any deposition of any Credit Suisse employee, including the two to which RBS refers. *Third*, RBS claims (at 3) that it shares "an overlapping deal" with Credit Suisse, but fails to note that the only such deal was reinstated recently in the *Credit Suisse* action in Kansas. NCUA has not obtained any deposition discovery regarding that deal (or any other reinstated Kansas certificate) because Credit Suisse has not provided relevant documents. *See* ECF No. 348 (establishing supplemental discovery schedule for reinstated Kansas certificates). *Fourth*, RBS has never attended any deposition of a Credit Suisse employee in these coordinated actions.

If RBS had genuinely believed that NCUA had provided insufficient notice of these Credit Suisse depositions, it could have raised this issue with NCUA, and NCUA would have made clear that NCUA did not intend to use those depositions against RBS and so RBS would suffer no prejudice from those deposition notices.

Judges Cote, Lungstrum, O'Hara, and Wu  
July 13, 2015  
Page 3

/s/ David C. Frederick

David C. Frederick  
Wan J. Kim  
Gregory G. Rapawy  
Andrew C. Shen  
KELLOGG, HUBER, HANSEN, TODD,  
EVANS & FIGEL, P.L.L.C.  
Sumner Square  
1615 M Street, N.W., Suite 400  
Washington, D.C. 20036  
Tel: (202) 326-7900  
dfrederick@khhte.com  
wkim@khhte.com  
grapawy@khhte.com  
ashen@khhte.com

George A. Zelcs  
KOREIN TILLERY LLC  
205 North Michigan Avenue, Suite 1950  
Chicago, IL 60601  
Tel: (312) 641-9750  
gzelcs@koreintillery.com

Stephen M. Tillery  
Michael E. Klenov  
Steven M. Berezney  
KOREIN TILLERY LLC  
505 North Seventh Street, Suite 3600  
St. Louis, MO 63101  
Tel: (314) 241-4844  
stillery@koreintillery.com  
mklenov@koreintillery.com  
sberezney@koreintillery.com

Marc M. Seltzer (54534)  
Bryan Caforio (261265)  
SUSMAN GODFREY L.L.P.  
1901 Avenue of the Stars, Suite 950  
Los Angeles, CA 90067  
Tel: (310) 789-3100  
mseltzer@susmangodfrey.com

Erik Haas  
Peter W. Tomlinson  
Philip R. Forlenza  
Henry J. Ricardo  
PATTERSON BELKNAP WEBB & TYLER LLP  
1133 Avenue of the Americas  
New York, NY 10036  
Tel: (212) 336-2000  
ehaas@pbwt.com  
pwtomlinson@pbwt.com  
prforlenza@pbwt.com  
hjr Ricardo@pbwt.com

David H. Wollmuth  
Frederick R. Kessler  
Steven S. Fitzgerald  
Ryan A. Kane  
WOLLMUTH MAHER & DEUTSCH LLP  
500 Fifth Avenue, 12th Floor  
New York, NY 10110  
Tel: (212) 382-3300  
dwollmuth@wmd-law.com  
fkessler@wmd-law.com  
sfitzgerald@wmd-law.com  
rkane@wmd-law.com

Norman E. Siegel (D. Kan. # 70354)  
Rachel E. Schwartz (Kan. # 21782)  
STUEVE SIEGEL HANSON LLP  
460 Nichols Road, Suite 200  
Kansas City, MO 64112  
Tel: (816) 714-7100  
siegel@stuevesiegel.com  
schwartz@stuevesiegel.com

*Attorneys for Plaintiff National Credit Union Administration Board*